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9

10 **UNITED STATES DISTRICT COURT**

11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 RICHARD S. BONDAR, as Trustee of the )  
13 Bondar Family Trust Dated 4/1/91, Individually )  
And On Behalf of All Others Similarly Situated, )

14 Plaintiff, )

15 v. )

16 BANK OF AMERICA CORPORATION, BANC )  
17 OF AMERICA INVESTMENT SERVICES, )  
18 INC., and BANC OF AMERICA SECURITIES, )  
LLC, )

19 Defendants.  
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Case No. CV-08-2599 (JSW)

**STIPULATION AND [PROPOSED]  
ORDER CONTINUING RULE 26 AND  
ADR DEADLINES, AND CONTINUING  
CASE MANAGEMENT CONFERENCE**

WHEREAS Orders issued in this case establish the following deadlines:

(1) August 15, 2008 – Last day to meet and confer regarding initial disclosures, early settlement, ADR process selection and a discovery plan, and to file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference pursuant to Civil Local Rule 16-8,

(2) August 29, 2008 – Last day to file Rule 26(f) Report, and

(3) September 5, 2008 at 1:30 p.m. – Initial Case Management Conference;

WHEREAS pursuant to Fed. R. Civ. P. 26(f)(2), the parties have begun the meet and confer process regarding preservation of discoverable information including electronically stored information (“ESI”), the parties have tentatively agreed on a form of production protocol for ESI and will continue to meet and confer concerning ESI preservation and production issues;

WHEREAS this class action is subject to a pending Motion to Transfer for Coordination before the Judicial Panel on Multi-District Litigation (“JPML”) (*In re Auction Rate Securities (ARS) Marketing Litigation*, MDL No. 1979);

WHEREAS good cause exists to modify the schedule for the parties’ ADR and remaining Rule 26 obligations, and to continue the Initial Case Management Conference, as a decision by the JPML on the pending Motion to Transfer for Coordination could impact these proceedings,

NOW, THEREFORE, the parties stipulate as follows:

(1) The parties’ last day to fulfill their remaining Rule 26 obligations, file their ADR Certification and Stipulation and file their Rule 26(f) Report shall be continued, pending the JPML’s determination on the Motion to Transfer for Coordination;

(2) The Initial Case Management Conference shall be continued, pending the JPML’s determination on the Motion to Transfer for Coordination; and

(3) The parties shall notify the Court when the JPML has rendered a ruling on the Motion to Transfer for Coordination. If the JPML denies the Motion to Transfer for Coordination, the parties shall:

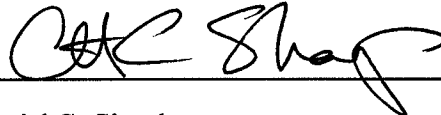
(a) Fulfill their remaining Rule 26 obligations and file their ADR Certification and Stipulation at least 21 days prior to the Initial Case Management Conference,

(b) File their Rule 26(f) Report no later than 14 days after fulfillment of their remaining Rule 26 obligations, and

(c) File a joint case management statement no later than five court days prior to the Initial Case Management Conference. A case management conference shall be set by Clerk's Notice upon receipt of the notice of the ruling by the JPML.

DATED: August 15, 2008

**GIRARD GIBBS LLP**

By: 

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*Lead Counsel for the Class*

DATED: August 15, 2008

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*Counsel for Defendants*

**[PROPOSED] ORDER**

Upon reviewing the above Stipulation, and good cause appearing, IT IS HEREBY ORDERED that:

- (1) The parties' last day to fulfill their remaining Rule 26 obligations, file their ADR Certification and Stipulation and file their Rule 26(f) Report shall be continued, pending the JPML's determination on the Motion to Transfer for Coordination;
- (2) The Initial Case Management Conference shall be continued, pending the JPML's determination on the Motion to Transfer for Coordination; and
- (3) The parties shall notify the Court when the JPML has rendered a ruling on the Motion to Transfer for Coordination. If the JPML denies the Motion to Transfer for Coordination, the parties shall:
  - (a) Fulfill their remaining Rule 26 obligations and file their ADR Certification and Stipulation at least 21 days prior to the Initial Case Management Conference,
  - (b) File their Rule 26(f) Report no later than 14 days after fulfillment of their remaining Rule 26 obligations, and
  - (c) File a joint case management statement no later than five court days prior to the Initial Case Management Conference. A case management conference shall be set by Clerk's Notice upon receipt of the notice of the ruling by the JPML.

DATED: August 15, 2008

  
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THE HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE